Call to Order:

The meeting was called to order at 7:15 p.m. Present were Chairman, Paul Salafia, and members, Linn Anderson, Vincent Chiozzi, and John McDonnell (arrived at 8:13 pm.); also present were Paul Materazzo, Director of Planning and Jacki Byerley, Planner.

Planning Session:

Town Meeting 2010:

Mr. Materazzo reviewed his memo to the Board dated August 6, 2009 which included a list of potential town meeting 2010 articles. The Board discussed the possible amendments included in Mr. Materazzo's memo and was in agreement to move forward with possible amendments for Open Space Residential Design and minor amendments to the Sign Bylaw at the Spring 2010 town meeting. Mr. Materazzo reviewed the Tax Increment Financing (TIF Agreement) and noted that, if Andover gets designated an Economic Target area, Andover would receive tax breaks and be eligible for State Tiff programs. Mr. Materazzo will invite members from the MOBD and MVPC to give the Board an overview of the benefits of a TIF Agreement. Mr. Materazzo noted that he is working on the 40R Overlay for the town yard and Ms. Byerley is working on amendments to the Outdoor Dining bylaw for fall 2009 town meeting. Mr. Materazzo noted that he is looking for input from the Board on the Form Base Code and the Town Yard Project and asked if any Board members are interested in acting as a liaison. Mr. Materazzo noted that Jacki and Lisa will be working on updating the Master Plan. Mr. Materazzo reviewed a PowerPoint Presentation for Andover's Economic Recovery Plan, which included Land Use Policy, Business Relations, and Long Range Planning. Ms. Byerley reviewed the Scanner Project. The Board discussed the retention schedule and the permitting process for the PDS. Mr. Materazzo noted that the permitting process is almost in place.

Subdivision Rules and Regulations:

Ms. Byerley reviewed her memo to the Board, dated August 3, 2009, for possible revision to the Subdivision Rules and Regulations for design standards for lanes and courts. She requested direction from the Planning Board. The Board questioned if there would be any more large subdivisions. Thomas Urbelis, Town Counsel, noted that there will be more challenging smaller subdivisions. The Board reviewed the subdivision rules and regulations for the town of Georgetown and draft details from other states' layouts of turn out and hammerheads. The Board suggested they keep it consistent with DPW. Board discussed the 4-lot Winterberry subdivision, and Mr. McDonnell noted that it did not need a full turnaround. Ms. Byerley noted that the developers do not want the roadways to be private. The Board discussed the merits of turnarounds versus tees and suggested that staff invite the Fire Prevention Officer to a meeting for his input.

8 Acorn Drive:

The Board took up the deliberation on an application by Fieldstone Meadows Development Corp. for a proposed 3-lot preliminary subdivision plan entitled 8 Acorn Drive. The Board reviewed Ms. Byerley memo to the Board, dated September 1, 2009, and discussed whether it meets the requirements of a preliminary plan. On a motion by Ms Anderson, seconded by Mr. McDonnell, the Board voted to approve the application by Fieldstone Meadows Development Corp. for a proposed 3-lot preliminary subdivision plan entitled 8 Acorn Drive subject to the six

8 Acorn Drive (cont.):

(6) modifications outlined in Ms. Byerley's memo, dated September 1, 2009. **Vote** Unanimous (4-0)

Pine Forest Park:

The Board opened the public hearings, continued from the July 14th meeting, on an application by Angelo Petrosino for a Definitive Subdivision Plan and a Special Permit for Earth Movement associated with an 11-lot subdivision entitled Pine Forest Park located off Flash Rd., North Reading. Chairman Salafia reviewed specific items that would be discussed at this evening's meeting. They were: Access to municipal water source (IMA), Legal right to improve ways in North Reading and documentation as to what is/is not a public way for access to the subdivision.

Legal right to improve ways in North Reading and documentation as to what is/is not a public way for access to the subdivision.

Attorney Mullen, representing the applicant, reviewed his letter to the Board, dated August 18, 2009, in which he outlined his opinion as to what is/is not a public way. Attorney Mullen reviewed a list of approved ways in North Reading and noted 500' of Flash Road is a public way. Attorney Mullen reviewed a 1966 plan, which laid out the private portions of Flash Road, and noted the mouth of his client's subdivision is to the east of the accepted way. Attorney Mullen also reviewed sheet 2 of the subdivision plans and the legal documents demonstrating certificate of title for the property. Attorney Urbelis, Town Counsel, noted that he has no comments on where the public/private way begins and ends. Attorney Mullen reviewed the Order of Layout and plan associated with Old Andover Rd. He also reviewed the Mass Gen. Laws. Ch. 41, § 77 and noted there is no record that the private way was accepted, but according to Mass. Gen. Laws. Ch. 82 § 22, the certificate of title and plan of land, his client has the right to pass and re-pass and make improvements to the way. Attorney Urbelis noted that just because Flash Rd was laid out by the Board of Survey, it is not enough to invoke a statutory layout under Mass General Laws because there was no town meeting vote. He did note that, as an abutter, they do have the right to improve that portion of Andover Road, subject to the rights of others. The Board questioned if they have the right to improve a public way. Attorney Mullen noted they have approval from North Reading with conditions, but they will have to go back for an amendment. Several abutters questioned if the applicant has a right to improve sections of the private way in North Reading and expressed concern that their right not to improve the way is being ignored. Attorney Mullen noted that a portion of the private way dead ends at his client's property and town lines are not relevant. Ms. Anderson asked to define "improve" a way. Attorney Mullen gave his opinion on "improve" a way. Attorney Urbelis defined it as the right to clear the way, the right to pave the way and to improve the way and the right to pass and repass. Attorney Urbelis noted that town lines do not affect the right to improve a way. The Board questioned if they can require a public way be improved to a subdivision in North Reading. Attorney Urbelis noted the Board has a right to say there is not adequate access to the subdivision but cannot tell them how to provide that access. Attorney Mullen noted that the way is accepted by North Reading and is providing access for over 300 homes. Al Walker, 11 Flash Road, questioned, if a subdivision is approved, how the applicant can prove that they will improve the way. The Board noted there are conditions that need to be met prior to a building permit being issued that ensures improvements are completed.

Pine Forest Park (cont.):

Water Supply:

Attorney Mullen noted that the plan before the Board provides for municipal water from North Reading; however North Reading does not want to enter into an inter-municipal agreement. Attorney Mullen noted they are revising the plans for wells, and they are also addressing responses raised at the IDR; this should be done by September 22nd. Ms. Byerley noted any revised plans will be sent to the IDR team for further review.

Celestial Circle:

The Board opened the public hearings, which were continued from the August 25th meeting, on an application by Rayvon Realty Trust for a nine lot Definitive Subdivision Plan, entitled Celestial Circle, and a Special Permit for a Cluster Development and a Special Permit for Earth Movement, located off Sunset Rock Road. On a motion by Ms. Anderson, seconded by Mr. McDonnell, the Board voted to continue the public hearings for Celestial Circle without discussion until September 22nd at 7:30 pm. **Vote** Unanimous (4-0)

I-93 Tri-Town Development Area:

Mr. Materazzo reviewed his memo to the Planning Board regarding the I-93 development area and invited the Board to a meeting on September 23, 2009 at 6:00 pm to participate in discussions for a form-base zoning code for the Interstate 93 Tri-Town Interchange Development Area.

Adjournment: The Board voted to adjourn the meeting at 9:50 p.m.